

## **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Amend only claim 3, and merely for purposes of mooted the objection of enumerated paragraph 4 of the office action.
2. Respectfully traverse all rejections under 35 USC §112, first paragraph (see Section B infra) .
3. Respectfully traverse all prior art rejections (see Section C infra).

### **B. THE CLAIMS ARE ENABLED**

Applicants traverse all rejections under 35 USC §112, first paragraph. After two previous office actions in which the claim phrases were unquestioned for support, this third office action incorrectly asserts that the claim phrases "continuously monitoring" and "radar-like interference signals" are not supported by the specification.

Applicants do not understand why the expression "continuously monitoring", so patently clear on its face, requires any further description or explanation. And yet it is clear, e.g., from the paragraph bridging pages 3 and 4 of the original application, that the term "continuously" has to be interpreted in context with the term "quasi-continuously". Whereas quasi-continuous monitoring comprises a plurality of measurement intervals that are each long compared to the time interval between two subsequent measurement intervals, a continuous monitoring includes only a single measurement interval that (in contrast to a quasi-continuous monitoring) is not intercepted by any time intervals in which no monitoring occurs. In other words, whereas a "quasi-continuous monitoring" may include short intervals in which no monitoring occurs, a "continuous monitoring" does not include any such intervals.

As regards the expression "radar-like interference signals", it is clear that this expression simply denotes radar interferences, i.e. interferences from radar-like signals (see page 2, lines 36 and 37 and page 3, lines 8 to 15). The specification amply characterizes radar-like interference signals as being those of a very short duration compared to the time interval between the occurrence of subsequent interference signals.

In view of the ample and clear support resident in the original disclosure for the two claim phrases now belatedly questioned, Applicants respectfully request that the rejections under 35 USC §112, first paragraph, be withdrawn.

### **C. PATENTABILITY OF THE CLAIMS**

Claims 1, 3-5, 9-15 and 17-19 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Publication 2001/0039183 to Kobayashi et al in view of U.S. Patent 6,052,605 to Meredith. Claims 2 and 6 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Publication 2001/0039183 to Kobayashi et al in view of U.S. Patent 6,052,605 to Meredith and further in view of U.S. Patent 6,466,793 to Wallstedt et al. Claim 6 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Publication 2001/0039183 to Kobayashi et al in view of U.S. Patent 6,052,605 to Meredith and further in view of U.S. Patent 6,404,830 to Wiese et al. Claims 7-8 and 20 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Publication 2001/0039183 to Kobayashi et al in view of U.S. Patent 6,052,605 to Meredith and further in view of U.S. Patent Publication 2002/0160769 to Gray. All prior art rejections are respectfully traversed for at least the following reasons.

The office action asserts that Kobayashi discloses a method, system and computer program product of controlling frequency selection. However, Kobayashi does not relate to frequency selection at all. In normal use, the term "frequency selection" clearly implies that at some stage one or more frequencies are selected out of a larger number of

frequencies (typically for transmission purposes). Kobayashi does not describe such a frequency selection. In paragraphs [0188] and [0189] (referred to by the office action in this regard), no frequency selection is mentioned. Rather, Kobayashi decides about the generation of an IS signal depending on whether or not an interference signal has been detected. The generation of an IS signal is clearly different from the claimed frequency selection step. In other words, Kobayashi performs interference monitoring and assessment only with respect to a single frequency that has already been selected earlier for transmission.

Additionally, the Kobayashi embodiment in paragraphs [0180] to [0204] relied upon by the office action is not related to the assessment of one or more frequency with respect to a radar-indicative characteristic of detected interference signals. As mentioned in Applicants' specification (see Fig. 1), the radar-indicative characteristic involves the presence of periodic interference signals of a very short duration compared to the time interval between the occurrence of subsequent interference signals. Such a characteristic can only be revealed by a continuous or quasi-continuous monitoring approach. Kobayashi, however, in paragraph [0193) simply speaks of "an interference wave signal from some other system", which could be radar interference (see paragraph [0184]), but could also be any other interference. Put another way, with respect to the embodiment discussed in paragraphs [0180] to [0204] the particular type of interference is of no importance, and it is not distinguished between radar-like interference signals (i.e. signals having a radar-indicative characteristic) and interference signals from other systems. This means, for example, that the operation of the IS generating circuit 17 described in paragraph [0189] would be the same regardless of whether the detected Interference wave signal is the result of radar interference or any other interference. Therefore, it can be deduced that the interference measurement interval for the Kobayashi first embodiment will be rather short and is not particularly intended for identifying radar-indicative characteristics.

Radar-Indicative characteristics might only be determined using a measurement strategy similar to the one taught in context with the second embodiment described in paragraphs [0205] to [0230] and in particular in paragraph [0208]. However, the second embodiment performs an assessment of the temporal pattern produced by an interference wave signal such as a radar-like interference signal not In context with the claimed frequency selection step. Rather, the temporal interference pattern is assessed in order to estimate the occurrence of future interference wave signals to appropriately time the transmission of an IS signal such that any packet transmitted in response to the IS signal will not collide with an estimated occurrence of the next interference pulse (see paragraph [0224]). Therefore, the office action inadmissibly combines two distinct embodiments when citing paragraphs [0208] with respect to the monitoring and assessing (see step a) on page 4 of the Office Action).

Summarizing, Kobayashi does not teach the step of monitoring and assessing one or more frequencies in context with selecting one or more of the monitored and assessed frequencies for transmission (see, e.g., page 6, last paragraph of the application documents). Moreover, as far as the first embodiment is concerned, Kobayashi does not disclose the assessment of one or more frequencies with respect to a radar-indicative characteristic of an interference signal. Rather, the first embodiment assesses the mere presence of any Interference signal, regardless of its origin. While it appears that the second embodiment of Kobayashi might theoretically be suitable for determining a radar-indicative characteristic, this assessment is not performed in context with frequency selection but in context with determining an Interference-free interval between two subsequent signals for packet transmission.

Additionally, as properly admitted by the office action, Kobayashi does not specifically disclose continuously or quasi-continuously monitoring and assessing one or more frequencies. While the office action cites Meredith in this regard, there is no

incentive in either Kobayashi or Meredith for such a combination. For example, the continuous interference assessment disclosed by Meredith does not occur in context with determining a radar-indicative characteristic of an interference signal.

Therefore, it is respectfully requested that all prior art rejections be withdrawn and all claims allowed.

#### **D. MISCELLANEOUS**

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: /H. Warren Burnam, Jr./

H. Warren Burnam, Jr.  
Reg. No. 29,366

HWB:lsh  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100